



# *Michigan Association of Health Plans*

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Senate Insurance Committee  
September 20, 2012

## **Blue Cross Reform (Mutualization)**

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Richard B. Murdock  
*Michigan Association of  
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My name is Rick Murdock and I am Executive Director of the Michigan Association of Health Plans. Our association represents 15 health plans serving over 2.5 Michigan citizens in Medicaid, Medicare and Commercial products and 55 business and limited members. Members of MAHP employ nearly 4000 individuals throughout Michigan.

Michigan's health insurers strongly support the concept of creating a level playing field for all health insurers in Michigan – including Blue Cross Blue Shield of Michigan. But we come at this objective from a different point of view.

Without question, the need for leveling that “playing field” can easily be seen. There is no disputing the fact that Blue Cross Blue Shield has a 70 percent of Michigan's commercial insurance market – a monopoly by any measure. In fact, the American Medical Association has reported that Michigan has the fourth worst competitive marketplace in the nation, due to the Blue Cross monopoly dominance in every market region.

Our vision is that we need to strive toward making Michigan the most competitive market place for health insurance in the United States. I am confident that we can all agree that a more competitive marketplace will benefit Michigan insurance consumers, lowering prices for insurance premiums and increasing innovation and quality incentives. We hope that the proposed reform of BCBSM will take place under the shared objective of Michigan striving to become the MOST competitive marketplace in the nation – which means by definition, no company be permitted to have a monopoly position in any of the commercial markets of the state.

We have obvious interest in reform of BCBSM and for the exact same reasons believe the legislature must look at making reasonable changes in the Insurance Code that affect the entire health insurance industry as it attempts to "level the playing field." Last year's health care message by Governor Snyder was a welcomed communication. Not only should Michigan focus health and wellness and personal health responsibility, but the time was long overdue for a review of PA 350. We agree. We also believe that the same "long overdue" review of pertinent sections of the Insurance code is necessary. This would start with an alignment of mandated benefits with the essential health benefit package that is being finalized by the Commissioner's office.

We were pleased by the action earlier this year by Commissioner Clinton regarding the use of "most favored nation" clauses and the need to prospectively seek approval of such contractual language beginning next year. Let's not forget that it was this "alleged" practice by BCBSM that led to the current litigation by the United States Department of Justice and Michigan Attorney General that will be heard next year in federal court.

Moreover, we were pleased by the recognition by the Commissioner and his recommendation that BCBSM join other carriers in paying their fair share of the uncompensated costs resulting from reimbursement shortfalls by Medicare and Medicaid. Without these payments, a burden largely bourn by other insurance carriers, the viability of Michigan's hospitals are at risk. This issue of "cost shifting" has been a growing matter within our industry due to the continued growth in Medicaid and Medicare. We assumed his recommendation would not be a one-time requirement but be ongoing.

So, if I were to summarize key points at this stage, it would be these:

- Michigan is one of the worst competitive states for health insurance according to several reports, including that of the American Medical Association.
- BCBSM has over 70% of the commercial market in Michigan and is the dominant carrier in every region of the state. Let's call it for what it is---a monopoly.
- Absolute agreement that reform is necessary.

Our expectations, stemming from the announced reform package, was that the reform legislation—in addition to the provisions of conversion to non-profit mutual—would have included provisions on the following:

1. Language on the future use of "most favored nation" clauses—by all carriers, including BCBSM.
2. Language regarding the need for all carriers—including BCBSM to pay their fair share of uncompensated care caused by shortfalls in Medicare and Medicaid.
3. Language that would clearly specify the payouts to the State of Michigan and language that would clarify that the proposed non-profit organization be the recipient of these funds and that the funds would be at arm's length from BCBSM and not among its subsidiaries.
4. Language that would provide protection and full recovery of assets to the State of Michigan in the event of a sale of BCBSM to a for-profit company or conversion to a for-profit mutual.
5. Language providing protection for Michigan citizens regarding the definition of monopoly and the appropriate additional oversight that may be necessary whenever a company exceeds that threshold on a statewide basis.
6. Language that addresses the mis-alignment of sections of the insurance code with the affordable care act requirements.

There are also provisions of PA 350 that makes sense—and if the intent is to repeal PA 350, then these provisions should move over to the Insurance Code. That would include provisions that: (1) premium rates must not be inadequate (protecting against predatory pricing); (2) products cannot be packaged with subsidiary products; (3) oversight by the AG; (4) Blue Cross to pay its fair share of hospital financial requirements; (5) caps on surplus; and (6) limitations on investments and acquisitions. The fact that these provisions are unique to BCBSM does not mean that they are at a competitive disadvantage or that there ought to be consistent regulation of all licensed entities at this time.

My starting point was that we want to make Michigan the most competitive state for health insurance. There clearly must be a transition period to reach that objective and simply and abruptly converting to a non-profit mutual WITHOUT adopting any other change that affect the competitive environment maintains the current "monopoly status." That is not leveling the playing field—that is tilting the field. We intend to provide suggested legislative changes to the Committee and Administration to address the points that I have raised in this testimony and hope that we can find common ground to move toward a competitive health insurance environment. Thank you for your considerations.